

HUMAN SERVICES BOARD

INTRODUCTION

DISCUSSION

In 2002 the petitioner was involved in a divorce proceeding in Vermont Family Court that resulted in rulings regarding distribution of marital assets that the petitioner

considers adverse and unfair. Following the court ruling the petitioner filed an unsuccessful professional conduct complaint against his former wife's attorney.

In June 2006 the petitioner filed a request with DAIL "appealing for Adult Protective Service". On August 31, 2006 the Commissioner of DAIL held a Commissioner's hearing with the petitioner. At that time the petitioner alleged that he had been "abused by the legal system", and he requested DAIL's assistance in bringing a lawsuit against the lawyer who had represented him in his divorce case. In a letter dated September 18, 2006 the Commissioner ruled: "The Department is not legally empowered to bring legal action against courts or lawyers in private disputes. I find that the decision by APS (Adult Protective Services) not to investigate because your circumstances do not meet the statutory definition of the adult protective statute is correct."

At the status conference with this hearing officer, held on November 13, 2006, the petitioner stated that he was in his seventies, but he did not allege any physical or mental deficiency. He stated that he feels he meets the statutory definition of a "vulnerable adult" (see *infra*) because he has been financially unable to obtain legal representation to

pursue his claims against his former wife and the courts and lawyers involved in his divorce.

ORDER

The Department's decision is affirmed.

REASONS

The Board's jurisdiction in cases involving DAIL derives solely from the following statutes. 3 V.S.A. § 3091(a) provides, in pertinent part, as follows:

An applicant for or a recipient of assistance, benefits or social services from the . . . department of aging and disabilities . . . or an applicant for a license from one of those departments or offices, or a licensee, may file a request for a fair hearing with the human services board . . .

33 V.S.A. § 6906(d), which covers DAIL investigations of abuse, provides, in relevant part:

Within 30 days of notification that a report has been substantiated, a person against whom a complaint has been lodged may apply to the human services board for relief on the grounds that it is unsubstantiated . . .

In this case the petitioner is not a recipient of or an applicant for any services or benefits from the Department. Nor is he a person against whom a complaint has been lodged. Therefore, it must be concluded that he does not have standing to file any appeal under either of the above statutes.

However, even if the petitioner were found to have standing in this matter, his request for relief is clearly beyond the Board's jurisdiction. The petitioner's complaint relates solely to legal proceedings in Family Court that he feels were unfair. The Board has repeatedly held that it does not have jurisdiction to intervene in or relitigate matters that are within the sole purview of the court. See e.g. Fair Hearing No. 19,426 (child support) and 17,868 (reports of child abuse).

The above notwithstanding, the statutes defining a "vulnerable adult" apply only to individuals whose age or disability results in "an impaired ability to protect himself or herself from abuse, neglect, or exploitation". 33 V.S.A. § 6902(13)(D)(ii). In this case, although he is in his seventies, the petitioner alleges only that he cannot obtain legal representation to pursue his claims based on his finances (and, possibly, professional judgements as to the merits of his claims), not on any physical or mental impairment on his part. Therefore, even if the Board did have jurisdiction to consider this matter, it would have to be concluded that the factual and legal bases of the Department's decision are fully in accord with applicable

law. Thus, the Board would have no legal basis to overturn that decision. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

At this time, the petitioner's remedies, if any, lie solely in family court. Neither the Department nor the Board is empowered to conduct any investigation or to provide any representation in his behalf in that matter.

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